

September 8, 2020

West Des Moines City Council Proceedings  
Tuesday, September 8, 2020

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Tuesday, September 8, 2020 at 5:30 PM. Council members present were: R. Hardman, G. Hudson, M. McKinney, K. Trevillyan, and R. Trimble.

On Item 1. Agenda. It was moved by Trimble, second by Trevillyan approve the agenda as presented.

Vote 20-383: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 2. Public Forum: No one came forward.

On Item 3. Council/Manager/Other Entities Reports:

Council member Hardman reported the Human Rights Commission met and discussed the job description for the new diversity, equity, and inclusion position. She also reported she participated as a panelist at the “Mentoring for Women” event hosted by the West Des Moines Chamber of Commerce. She stated she plans to attend the first responders breakfast tomorrow and the groundbreaking ceremony for the new Des Moines University campus on Thursday.

Council member Hudson spoke in support of the Underground Railroad Month proclamation on tonight’s agenda. He also expressed support for the MidAmerican Energy RecPlex partnership with Courage League Sports.

On Item 4. Consent Agenda.

Council members pulled Items 4(c)2, 4(f), and 4(j)2 for discussion. It was moved by Trimble, second by Hardman to approve the consent agenda as amended.

- a. Approval of Minutes of August 17, 2020 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
  - 1. WDM Sports, LLC d/b/a 1908 Draught House, 196 South 50<sup>th</sup> Street - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
  - 2. Alan Castro d/b/a Alan Castro (Bass in the Junction Concert), 400 Block of Railroad Place - 5-Day Class BW Permit with Outdoor Service - September 26, 2020
  - 3. Apple Corps, L.P., d/b/a Applebee’s Neighborhood Grill & Bar, 6190 Mills Civic Parkway - Class LC Liquor License with Sunday Sales - Renewal

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4. Montes Corporation d/b/a El Toreado Mexican Bar & Grill, 3751 EP True Parkway - Class LC Liquor License with Sunday Sales - New
5. Foundry Distilling Company, LLC d/b/a Foundry Distilling Company, 111 South 11th Street, Suite 100 - Class C Native Distilled Spirits License Expansion of Outdoor Service - October 9-12, 2020
6. TenX Adventures 2, LLC d/b/a The Hall, 111 South 11<sup>th</sup> Street - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
7. Kinseth Hospitality Company, Inc. d/b/a Holiday Inn Express & Suites, 240 Jordan Creek Parkway - Class LB Liquor License with Sunday Sales - Renewal
8. Ingersoll Liquor & Beverage Co., d/b/a Ingersoll Wine Merchants, 1300 50<sup>th</sup> Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
9. Butterface, LLC d/b/a The Keg Stand, 3530 Westown Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
10. Lodge of Ashworth, Inc., d/b/a The Lodge of Ashworth Club, 909 Ashworth Road - Class LC Liquor License with Sunday Sales, Living Quarters, Outdoor Service, and Catering Privileges - Renewal
11. Riley Drive Entertainment I, Inc. d/b/a Tonic Bar, 5535 Mills Civic Parkway – Class LC Liquor License with Carryout Wine, Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
12. Your Private Bartender, LLC d/b/a Your Private Bar, 1701 25<sup>th</sup> Street (Events Center West) - Class LC Liquor License with Carryout Wine, Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
- d. Approval of Order for Violation of Alcohol Laws
- e. Approval of Extended Sound Permit - Sinnard Wedding Ceremony and Reception, 2045 SE 11<sup>th</sup> Street
- g. Approval of Contract Agreement - Streets and Cul-de-Sac Snow and Ice Removal Services
- h. Approval of Professional Services Agreement - 2020 Asphalt Trail Renovation
- i. Approval of Change Orders:
  1. MidAmerican Energy RecPlex, General Construction, #4
  2. MidAmerican Energy RecPlex, Pre-Engineered Metal Building, #6
- j. Approval of Amendments to Professional Services Agreements:
  1. Grand Avenue Reconstruction, 1<sup>st</sup> Street to 6<sup>th</sup> Street
  3. Miscellaneous Land Surveying Services
  4. South 88<sup>th</sup> Street and Mills Civic Parkway Reconstruction
- k. Approval of Agreements:
  1. MidAmerican Energy RecPlex Exclusive Beverage - PepsiCo
  2. MidAmerican Energy RecPlex Lease and Hold Harmless Agreements – Courage League Sports
- l. Award Contracts:
  1. MidAmerican Energy RecPlex Ice Arena Fixed Seating
  2. MidAmerican Energy RecPlex Interior Sports Arena Lighting

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3. MidAmerican Energy RecPlex Exterior Sports Field Lighting
4. MidAmerican Energy RecPlex Audio/Video and Digital Signage
5. MidAmerican Energy RecPlex Open Office Furniture
6. MidAmerican Energy RecPlex Hardwood and Multi-Purpose Court Flooring
- m. Order Construction:
  1. 1211 Vine Street Abatement
  2. 1211 Vine Street Demolition
  3. 2020 Sewer Cleaning and Televising Program
- n. Accept Work:
  1. Fiber Conduit Interconnect Project (Green Route)
  2. Valley Junction Alley Improvements, Phase 5B
- o. Approval of Professional Services Agreements:
  1. West Des Moines Digital Enterprise Segment 3, Phases 1, 2 and 3
  2. West Des Moines Digital Enterprise Segment 4, Phase 1
  3. West Des Moines Digital Enterprise Segment 5, Phases 1 and 2
- p. Establish Just Compensation and Approve Acquisition of Property:
  1. 88<sup>th</sup> Street Reconstruction, Ashworth Road to Abram Drive
  2. High Street Storm Sewer Improvements
  3. Prairie View Drive and Ashworth Road Intersection Improvements
  4. South 35<sup>th</sup> Street and Grand Valley Drive Culverts
- q. Approval of Request for Reimbursement from the State of Iowa COVID-19 Government Relief Fund
- r. Approval of Amendment to Standard Economic Development Incentive Policy
- s. Approval and Acceptance of Property Interests - Raccoon River Basin Segment 5 Sewer - Gravity Sewer Project
- t. Approval and Acceptance of Purchase Agreement and Property Interests - Ashworth Road Reconstruction, Phase 4
- u. Approval to Issue RFP for Fire Department Ladder Truck
- v. Approval of Proclamations:
  1. Underground Railroad Month, September 2020
  2. Direct Support Professional Recognition Week, September 13-19, 2020

Vote 20-384: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 4(j)2 Approval of Amendment to Professional Services Agreement - Johnson Creek Realignment - Environmental Permitting

Council member Trevillyan stated he will abstain on this item due to a potential conflict of interest.

It was moved by Trimble, second by McKinney to approve Item 4(j)2 Approval of Amendment to Professional Services Agreement - Johnson Creek Realignment - Environmental Permitting.

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Vote 20-385: Hardman, Hudson, McKinney, Trimble ... 4 yes  
Trevillyan ... 1 abstain due to potential conflict of interest

Motion carried.

On Item 4(f) Approval of Waiver of City Code Requirement Regarding a Special Event Lane Closure - Bass in the Junction Concert, September 26, 2020

Council member Trevillyan expressed concerns about this event occurring in light of the ongoing COVID-19 pandemic. He noted other annual events held at the Railroad Park Pavilion, such as the Music in the Junction and Taste of the Junction, have been canceled this year.

Mayor Gaer stated the City would have allowed the other events to occur if the organizers had been able to ensure the social distancing requirements were met, but the organizers themselves chose to cancel those events. He stated his understanding is the City is allowing events to occur as long as social distancing requirements are met.

Fire/EMS Chief Craig Leu confirmed that Mayor Gaer's understanding is correct, as neither the State proclamation nor the City proclamation would prohibit such an event, as long as social distancing requirements are met. He reported he spoke with the Polk County Health Department, and they agreed that there are currently no laws in place to prohibit this event. He also reported he calculated the recommended capacity based on two people per square in a 12-foot by 12-foot grid, which came out to 320 people.

Alan Castro, 6108 Tonka Avenue, Des Moines, reported he will have a team on hand during the event to take the temperature of attendees, distribute hand sanitizer, and ensure social distancing requirements are met and attendees are wearing face coverings. He stated he would be open to lowering the capacity below 300 people if that would make the Council feel more comfortable with this event. He responded to questions from the Council, stating he also plans to have an off-duty West Des Moines Police Officer at the event.

The Mayor and Council held discussion on whether or not this event should occur in light of the ongoing COVID-19 pandemic.

Council member Hardman expressed concerns that the pandemic is already an ongoing problem, and she believes this event has the potential to further contribute to the problem. She stated, out of an overabundance of safety, she would feel most comfortable with denying the permit for this event.

Council member Trimble stated he would also prefer to err on the side of caution, as he feels it is too early to begin allowing events like this to occur.

Mr. Castro inquired if the Council would be comfortable with the event if it were limited to 150 people.

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Council member McKinney stated he has concerns about this event, but he doesn't feel comfortable denying the permit, since a sound permit for a wedding with 150 people was just approved as part of the consent agenda.

Council member Trimble noted the difference with the wedding is that it is occurring on private property, so the event itself does not require a permit to occur. The permit approved by Council only allows amplified sound at the event.

Mayor Gaer stated he believes it sends a bad message when an event organizer agrees to comply with all the requirements in place, but the City still denies the permit.

Council member Hudson expressed concerns about setting a precedent with any decision made tonight, as he is unsure what the appropriate threshold is for number of attendees at an event. He noted he would be supportive of approving this permit if the number of attendees was lowered, as suggested by Mr. Castro.

Council member Trevillyan expressed concerns that it will be very difficult to ensure social distancing at the bar area for this event.

Mr. Castro stated he plans to place stickers on the ground, marking the proper social distancing for attendees in line at the bar.

It was moved by Trevillyan, second by Hardman to deny Item 4(f) Waiver of City Code Requirement Regarding a Special Event Lane Closure - Bass in the Junction Concert, September 26, 2020.

Vote 20-386: Hardman, Hudson, Trevillyan, Trimble ... 4 yes  
McKinney ... 1 no

Motion carried.

On Item 4(c)2 Approval of Liquor License - Alan Castro d/b/a Alan Castro (Bass in the Junction Concert), 400 Block of Railroad Place - 5-Day Class BW Permit with Outdoor Service - September 26, 2020

It was moved by Trevillyan, second by Hudson to deny Item 4(c)2 Liquor License - Alan Castro d/b/a Alan Castro (Bass in the Junction Concert), 400 Block of Railroad Place - 5-Day Class BW Permit with Outdoor Service - September 26, 2020.

Vote 20-387: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

Mayor Gaer expressed appreciation to Mr. Castro for seeking to host his event in West Des Moines.

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On Item 5(a) 1st Street Redevelopment, southwest corner of 1st Street and Grand Avenue - Amend the Planned Unit Development (PUD) to Add Property and Amend Buffering and Access Requirements, initiated by First Street Limited Partnership

It was moved by McKinney, second by Trimble to consider the second reading of the ordinance.

Vote 20-388: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by McKinney, second by Trimble to approve the second reading of the ordinance.

Vote 20-389: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

It was moved by McKinney, second by Trimble to waive the third reading and adopt the ordinance in final form.

Vote 20-390: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 5(b) Panera Bread, 6740 University Avenue - Amend the West Lakes Planned Unit Development (PUD) to Accommodate the Addition of a Drive-Thru to an Existing Restaurant, initiated by SLB of Iowa

It was moved by Trevillyan, second by Hardman to consider the second reading of the ordinance.

Vote 20-391: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Hardman to approve the second reading of the ordinance.

Vote 20-392: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

It was moved by Trevillyan, second by Hardman to waive the third reading and adopt the ordinance in final form.

Vote 20-393: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

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Mayor Gaer read Proclamation - Underground Railroad Month. He then presented the signed proclamation to representatives from the West Des Moines Historical Society.

Mayor Gaer also read Proclamation - Welcoming Week, and he stated he signed the proclamation today, but it will be included on the September 21<sup>st</sup> council meeting agenda for formal approval.

On Item 5(c) Amendment to City Code - Title 7 (Public Ways and Property), Chapter 11 (Park Regulations) - Clarify the Purpose and Rules and Regulations within City Parks and Parks and Recreation Facilities, initiated by the City of West Des Moines

It was moved by Trimble, second by Hudson to consider the second reading of the ordinance.

Vote 20-394: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Hudson to approve the second reading of the ordinance.

Vote 20-395: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

It was moved by Trimble, second by Hudson to waive the third reading and adopt the ordinance in final form.

Vote 20-396: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 5(d) Amendment to City Code - Title 8 (Building Regulations), Chapter 2 Building Codes - Updates to the City's Regulations for Building Construction, initiated by the City of West Des Moines

It was moved by McKinney, second by Hudson to consider the second reading of the ordinance.

Vote 20-397: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by McKinney second by Hudson to approve the second reading of the ordinance.

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Vote 20-398: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

It was moved by McKinney second by Hudson to waive the third reading and adopt the ordinance in final form.

Vote 20-399: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider M&W Mini Storage, 2001 Grand Avenue - Establishment a Planned Unit Development (PUD), initiated by MHC 80 (Des Moines, IA) LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on August 20, 2020 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 7-0, the Plan and Zoning Commission recommended City Council approval of the PUD ordinance.

Mayor Gaer asked if there were any public comments.

Dan Manning, Sr., Lillis Law Firm, 317 6<sup>th</sup> Avenue, Des Moines, spoke on behalf of the applicant and provided an overview of the proposed mini storage project. He expressed appreciation to City staff for their guidance throughout the process, and he requested that the Council support the proposed PUD ordinance.

Norm Kotoch, NAK Management and Consulting, thanked the Council for their time and consideration, and he expressed appreciation to City staff for their efforts.

Mayor Gaer asked if there were any additional public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Trimble to consider the first reading of the ordinance.

Vote 20-400: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Hardman to approve the first reading of the ordinance.

Vote 20-401: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.



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On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Agreement for Private Development, initiated by Galloway Holdings, LLC and JCG Equity, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on August 28, 2020 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by McKinney to adopt Resolution - Approval of Agreement.

Vote 20-402: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider Community Development Block Grant Program COVID-19 Funds, initiated by Iowa Economic Development Authority. He asked for the date the notice was published and the City Clerk indicated the notice was published on August 28, 2020 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Hardman, second by Trimble to adopt Resolution - Approval of Application for Funding.

Vote 20-403: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(a) Della Vita Plat 2, south of existing Milan Street and west of Napoli Avenue - Subdivide Property into 36 Footprint Lots and Two Outlots for Common Areas, initiated by Della Vita, LLC

It was moved by Trimble, second by Hudson to adopt Resolution - Approval and Release of Final Plat, subject to the applicant complying with all applicable City Code requirements.

Vote 20-404: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(b) Mills Landing, southeast corner of South 60th Street and Mills Civic Parkway - Subdivide Property into One Lot for High Density Residential Development, Three Lots for Commercial Development, One Public Street Lot, and One Outlot for Storm Water Detention, initiated by Shree Ram Development, LLC

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It was moved by Trevillyan, second by McKinney to adopt Resolution - Approval and Release of Final Plat, subject to the applicant complying with all applicable City Code requirements.

Vote 20-405: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(c) Spring Crest Townhomes WDM, southeast corner of Westown Parkway and 92nd Street - Subdivide Property into 48 Footprint Plots and One Outlot for Storm Water Detention, Private Streets, and Other Common Area, initiated by Spring Crest Townhomes WDM, LLC

It was moved by Trimble, second by Hardman to adopt Resolution - Approval and Release of Final Plat, subject to the applicant complying with all applicable City Code requirements.

Vote 20-406: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(d) Parcel 2020-125, Veterans Parkway and SE Maffitt Lake Road - Plat of Survey for Transfer of Ownership, initiated by the City of West Des Moines

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval and Release of Plat of Survey, subject to the applicant complying with all applicable City Code requirements.

Vote 20-407: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 8 - Receive, File and/or Refer: no items

On Item 9 - Other Matters: none

The meeting was adjourned at 6:16 p.m.

Respectfully submitted,

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Ryan T. Jacobson, CMC  
City Clerk

ATTEST:

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Steven K. Gaer, Mayor